

Westlaw

2011 Tex. Sess. Law Serv. Ch. 123 (S.B. 14) (VERNON'S)

VERNON'S TEXAS SESSION LAW SERVICE 2011
Eighty-Second Legislature, 2011 Regular Session

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Vetoed are indicated by ~~Text~~;
stricken material by ~~Text~~.

CHAPTER 123

S.B. No. 14

REQUIREMENTS TO VOTE, INCLUDING PRESENTING PROOF OF IDENTIFICATION;
PROVIDING CRIMINAL PENALTIES

AN ACT

relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 13.002, Election Code, is amended by adding Subsection (i) to read as follows:

<< TX ELECTION § 13.002 >>

(i) An applicant who wishes to receive an exemption from the requirements of Section 63.001(b) on the basis of disability must include with the person's application:

(1) written documentation:

(A) from the United States Social Security Administration evidencing the applicant has been determined to have a disability; or

(B) from the United States Department of Veterans Affairs evidencing the applicant has a disability rating of at least 50 percent; and

(2) a statement in a form prescribed by the secretary of state that the applicant does not have a form of identification acceptable under Section 63.0101.

SECTION 2. Section 15.001, Election Code, is amended by adding Subsection (c) to read as follows:

<< TX ELECTION § 15.001 >>

(c) A certificate issued to a voter who meets the certification requirements of Section 13.002(i) must contain an indication that the voter is exempt from the requirement to present identification other than the registration certificate before being accepted for



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voting.

SECTION 3. Effective September 1, 2011, Subchapter A, Chapter 15, Election Code, is amended by adding Section 15.005 to read as follows:

<< TX ELECTION § 15.005 >>

Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS. (a) The voter registrar of each county shall provide notice of the identification requirements for voting prescribed by Chapter 63 and a detailed description of those requirements with each voter registration certificate issued under Section 13.142 or renewal registration certificate issued under Section 14.001.

(b) The secretary of state shall prescribe the wording of the notice to be included on the certificate under this section.

SECTION 4. Subsection (a), Section 15.022, Election Code, is amended to read as follows:

<< TX ELECTION § 15.022 >>

(a) The registrar shall make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:

- (1) after receipt of a notice of a change in registration information under Section 15.021;
- (2) after receipt of a voter's reply to a notice of investigation given under Section 16.033;
- (3) after receipt of a registration omissions list and any affidavits executed under Section 63.006 [63.007], following an election;
- (4) after receipt of a voter's statement of residence executed under Section 63.0011;
- (5) before the effective date of the abolishment of a county election precinct or a change in its boundary;
- (6) after receipt of United States Postal Service information indicating an address reclassification;
- (7) after receipt of a voter's response under Section 15.053; or
- (8) after receipt of a registration application or change of address under Chapter 20.

SECTION 5. Effective September 1, 2011, Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.012 to read as follows:

<< TX ELECTION § 31.012 >>

Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) The secretary of state and the voter registrar of each county that maintains a website shall provide notice of the

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identification requirements for voting prescribed by Chapter 63 on each entity's respective website in each language in which voter registration materials are available. The secretary of state shall prescribe the wording of the notice to be included on the websites.

(b) The secretary of state shall conduct a statewide effort to educate voters regarding the identification requirements for voting prescribed by Chapter 63.

(c) The county clerk of each county shall post in a prominent location at the clerk's office a physical copy of the notice prescribed under Subsection (a) in each language in which voter registration materials are available.

SECTION 6. Effective September 1, 2011, Section 32.111, Election Code, is amended by adding Subsection (c) to read as follows:

<< TX ELECTION § 32.111 >>

(c) The training standards adopted under Subsection (a) must include provisions on the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

SECTION 7. Effective September 1, 2011, Subsection (a), Section 32.114, Election Code, is amended to read as follows:

<< TX ELECTION § 32.114 >>

(a) The county clerk shall provide one or more sessions of training using the standardized training program and materials developed and provided by the secretary of state under Section 32.111 for the election judges and clerks appointed to serve in elections ordered by the governor or a county authority. Each election judge shall complete the training program. **Each election clerk shall complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.**

SECTION 8. Chapter 62, Election Code, is amended by adding Section 62.016 to read as follows:

<< TX ELECTION § 62.016 >>

Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES. The presiding judge shall post in a prominent place on the outside of each polling location a list of the acceptable forms of identification. The list must be printed using a font that is at least 24-point. The notice required under this section must be posted separately from any other notice required by state or federal law.

SECTION 9. Section 63.001, Election Code, is amended by amending Subsections (b), (c), (d), and (f) and adding Subsections (g) and (h) to read as follows:

<< TX ELECTION § 63.001 >>

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(b) Except as provided by Subsection (h), on [~~On~~] offering to vote, a voter must present to an election officer at the polling place one form of identification described by Section 63.0101 [~~the voter's voter registration certificate to an election officer at the polling place~~].

(c) On presentation of the documentation required under Subsection (b) [~~a registration certificate~~], an election officer shall determine whether the voter's name on the documentation [~~registration certificate~~] is on the list of registered voters for the precinct. If in making a determination under this subsection the election officer determines under standards adopted by the secretary of state that the voter's name on the documentation is substantially similar to but does not match exactly with the name on the list, the voter shall be accepted for voting under Subsection (d) if the voter submits an affidavit stating that the voter is the person on the list of registered voters.

(d) If , as determined under Subsection (c), the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting.

(f) After determining whether to accept a voter, an election officer shall return the voter's documentation [~~registration certificate~~] to the voter.

(g) If the requirements for identification prescribed by Subsection (b) are not met, the voter may be accepted for provisional voting only under Section 63.011. For a voter who is not accepted for voting under this section, an election officer shall:

(1) inform the voter of the voter's right to cast a provisional ballot under Section 63.011; and

(2) provide the voter with written information, in a form prescribed by the secretary of state, that:

(A) lists the requirements for identification;

(B) states the procedure for presenting identification under Section 65.0541;

(C) includes a map showing the location where identification must be presented; and

(D) includes notice that if all procedures are followed and the voter is found to be eligible to vote and is voting in the correct precinct, the voter's provisional ballot will be accepted.

(h) The requirements for identification prescribed by Subsection (b) do not apply to a voter who is disabled and presents the voter's voter registration certificate containing the indication described by Section 15.001(c) on offering to vote.

SECTION 10. Subsection (a), Section 63.0011, Election Code, is amended to read as follows:

<< TX ELECTION § 63.0011 >>

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(a) Before a voter may be accepted for voting, an election officer shall ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. If the voter's address is omitted from the precinct list under Section 18.005(c), the officer shall ask the voter if the voter's residence, if [as] listed, on **identification presented by the voter under Section 63.001(b)** [~~the voter's voter registration certificate~~] is current and whether the voter has changed residence within the county.

SECTION 11. Effective September 1, 2011, Chapter 63, Election Code, is amended by adding Section 63.0012 to read as follows:

<< TX ELECTION § 63.0012 >>

Sec. 63.0012. NOTICE OF IDENTIFICATION REQUIREMENTS TO CERTAIN VOTERS. (a) An election officer shall distribute written notice of the identification that will be required for voting beginning with elections held after January 1, 2012, and information on obtaining identification without a fee under Chapter 521A, Transportation Code, to each voter who, when offering to vote, presents a form of identification that will not be sufficient for acceptance as a voter under this chapter beginning with those elections.

(b) The secretary of state shall prescribe the wording of the notice and establish guidelines for distributing the notice.

(c) This section expires September 1, 2017.

SECTION 12. Section 63.006, Election Code, is amended to read as follows:

<< TX ELECTION § 63.006 >>

Sec. 63.006. VOTER WITH REQUIRED DOCUMENTATION [~~CORRECT CERTIFICATE~~] WHO IS NOT ON LIST. (a) A voter who, when offering to vote, presents the **documentation required under Section 63.001(b)** [~~a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote;~~] but whose name is not on the precinct list of registered voters[;] shall be accepted for voting if **the voter also presents a voter registration certificate indicating that the voter is currently registered:**

(1) in the precinct in which the voter is offering to vote; or

(2) in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit stating that the voter:

(A) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct;

(B) was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar;

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(C) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and

(D) is voting only once in the election.

(b) After the voter is accepted, an election officer shall :

(1) indicate beside the voter's name on the poll list that the voter was accepted under this section ; **and**

(2) enter the voter's name on the registration omissions list.

SECTION 13. Section 63.009, Election Code, is amended to read as follows:

<< TX ELECTION § 63.009 >>

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. A [~~(a) Except as provided by Subsection (b); a~~] voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011.

[~~(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county and the person presents proof of identification; the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.011 in complying with that section. After the voter is accepted under this subsection, an election officer shall also indicate beside the voter's name on the poll list that the voter was accepted under this section.~~]

SECTION 14. Section 63.0101, Election Code, is amended to read as follows:

<< TX ELECTION § 63.0101 >>

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is **an acceptable form [as proof]** of **photo** identification under this chapter:

(1) a driver's license , **election identification certificate**, or personal identification card issued to the person by the Department of Public Safety **that has not [or a similar document is- sued to the person by an agency of another state; regardless of whether the license or card has] expired or that expired no earlier than 60 days before the date of presentation;**

(2) a **United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation [form of identification containing the person's photograph that establishes the person's identity];**

(3) a [~~birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;~~

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[~~(4)~~] United States citizenship **certificate** [~~papers~~] issued to the person **that contains the person's photograph**;

(4) [~~(5)~~] a United States passport issued to the person **that has not expired or that expired no earlier than 60 days before the date of presentation**; or

(5) **a license to carry a concealed handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation**

[(6) **official mail addressed to the person by name from a governmental entity**;

[(7) **a copy of a current utility bill; bank statement; government check; paycheck; or other government document that shows the name and address of the voter**; or

[(8) **any other form of identification prescribed by the secretary of state**].

SECTION 15. Section 63.011, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

<< TX ELECTION § 63.011 >>

(a) A person to whom Section **63.001(g)** [~~63.008(b)~~] or **63.009** [~~63.009(a)~~] applies may cast a provisional ballot if the person executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the person seeks to vote; and

(2) is eligible to vote in the election.

(b) A form for an affidavit required by this section **must** [~~shall~~] be printed on an envelope in which the provisional ballot voted by the person may be placed and must include :

(1) a space for entering the identification number of the provisional ballot voted by the person ; **and**

(2) **a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101.**

(b-1) The affidavit form may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

SECTION 16. Subsection (b), Section 64.012, Election Code, is amended to read as follows:

<< TX ELECTION § 64.012 >>

(b) An offense under this section is a felony of the **second** [~~third~~] degree unless the person is convicted of an attempt. In that case, the offense is a **state jail felony** [~~Class A misdemeanor~~].

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SECTION 17. Subsection (b), Section 65.054, Election Code, is amended to read as follows:

<< TX ELECTION § 65.054 >>

(b) A provisional ballot **shall** [~~may~~] be accepted [~~only~~] if the board determines that :

(1) [;] from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election ;

(2) the person:

(A) meets the identification requirements of Section 63.001(b) at the time the ballot was cast or in the period prescribed under Section 65.0541;

(B) notwithstanding Chapter 110, Civil Practice and Remedies Code, executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or

(C) executes an affidavit under penalty of perjury that states the voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that was declared by the president of the United States or the governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification; and

(3) the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the requirements for identification prescribed by Section 63.001(b).

SECTION 18. Subchapter B, Chapter 65, Election Code, is amended by adding Section 65.0541 to read as follows:

<< TX ELECTION § 65.0541 >>

Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN PROVISIONAL BALLOTS. (a) A voter who is accepted for provisional voting under Section 63.011 because the voter does not meet the identification requirements of Section 63.001(b) may, not later than the sixth day after the date of the election:

(1) present a form of identification described by Section 63.0101 to the voter registrar for examination; or

(2) execute an affidavit described by Section 65.054(b)(2)(B) or (C) in the presence of the voter registrar.

(b) The secretary of state shall prescribe procedures as necessary to implement this section.

SECTION 19. Section 66.0241, Election Code, is amended to read as follows:

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<< TX ELECTION § 66.0241 >>

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

- (1) the precinct list of registered voters;
- (2) the registration correction list;
- (3) the registration omissions list;
- (4) any statements of residence executed under Section 63.0011; and
- (5) any affidavits executed under Section **63.006** [~~63.007~~] or 63.011.

SECTION 20. Subtitle B, Title 7, Transportation Code, is amended by adding Chapter 521A to read as follows:

T. 7 Subt. B Ch. 521A

CHAPTER 521A. ELECTION IDENTIFICATION CERTIFICATE

<< TX TRANSP § 521A.001 >>

Sec. 521A.001. ELECTION IDENTIFICATION CERTIFICATE. (a) The department shall issue an election identification certificate to a person who states that the person is obtaining the certificate for the purpose of satisfying Section 63.001(b), Election Code, and does not have another form of identification described by Section 63.0101, Election Code, and:

- (1) who is a registered voter in this state and presents a valid voter registration certificate; or
- (2) who is eligible for registration under Section 13.001, Election Code, and submits a registration application to the department.
- (b) The department may not collect a fee for an election identification certificate or a duplicate election identification certificate issued under this section.
- (c) An election identification certificate may not be used or accepted as a personal identification certificate.
- (d) An election officer may not deny the holder of an election identification certificate the ability to vote because the holder has an election identification certificate rather than a driver's license or personal identification certificate issued under this subtitle.
- (e) An election identification certificate must be similar in form to, but distinguishable in color from, a driver's license and a personal identification certificate. The department may cooperate with the secretary of state in developing the form and appearance of an election identification certificate.

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(f) The department may require each applicant for an original or renewal election identification certificate to furnish to the department the information required by Section 521.142.

(g) The department may cancel and require surrender of an election identification certificate after determining that the holder was not entitled to the certificate or gave incorrect or incomplete information in the application for the certificate.

(h) A certificate expires on a date specified by the department, except that a certificate issued to a person 70 years of age or older does not expire.

<< Repealed: TX ELECTION §§ 63.007, 63.008 >>

SECTION 21. Sections 63.007 and 63.008, Election Code, are repealed.

<< Note: TX ELECTION §§ 32.111, 32.114 >>

SECTION 22. Effective September 1, 2011:

(1) as soon as practicable, the secretary of state shall adopt the training standards and develop the training materials required to implement the change in law made by this Act to Section 32.111, Election Code; and

(2) as soon as practicable, the county clerk of each county shall provide a session of training under Section 32.114, Election Code, using the standards adopted and materials developed to implement the change in law made by this Act to Section 32.111, Election Code.

<< Note: TX ELECTION § 64.012 >>

SECTION 23. The change in law made by this Act in amending Subsection (b), Section 64.012, Election Code, applies only to an offense committed on or after January 1, 2012. An offense committed before January 1, 2012, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before January 1, 2012, if any element of the offense occurs before that date.

SECTION 24. Effective September 1, 2011, state funds disbursed under Chapter 19, Election Code, for the purpose of defraying expenses of the voter registrar's office in connection with voter registration may also be used for additional expenses related to coordinating voter registration drives or other activities designed to expand voter registration. This section expires January 1, 2013.

SECTION 25. Every provision in this Act and every application of the provisions in this Act are severable from each other. If any application of any provision in this Act to any person or group of persons or circumstances is found by a court to be invalid, the remainder of this Act and the application of the Act's provisions to all other persons and circumstances may not be affected. All constitutionally valid applications of this Act shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the

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legislature's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this Act invalid in a large or substantial fraction of relevant cases, the remaining valid applications shall be severed and allowed to remain in force.

SECTION 26. Except as otherwise provided by this Act, this Act takes effect January 1, 2012.

Passed the Senate on January 26, 2011: Yeas 19, Nays 11; April 5, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; April 11, 2011, House granted request of the Senate; May 9, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 19, Nays 12; passed the House, with amendments, on March 24, 2011: Yeas 101, Nays 48, one present not voting; April 11, 2011, House granted request of the Senate for appointment of Conference Committee; May 16, 2011, House adopted Conference Committee Report by the following vote: Yeas 98, Nays 46, one present not voting.

Approved May 27, 2011.

Effective January 1, 2012, except as otherwise provided by this Act.

TX LEGIS 123 (2011)

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